

2000 SEP 14 P 4: 21

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:)	PACA Docket No. D-00-00013
)	
Johnny S. Tawil d/b/a Discount)	
Wholesale Produce)	
)	
Respondent)	Decision Without Hearing By
)	Reason of Default
)	

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §499a et seq.; hereinafter referred to as the "Act"), instituted by a Complaint filed on March 30, 2000, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The Complaint alleges that during the period March through May 1999, Respondent, Johnny S. Tawil, doing business as Discount Wholesale Produce (hereinafter "Respondent"), failed to make full payment promptly to 15 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$645,975.51 for 106 lots of fruits and vegetables, which it received, accepted, and sold in interstate commerce.

A copy of the Complaint was served upon Respondent on ~~May~~ 26, 2000. This Complaint has not been answered. The time for filing an answer having run, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. §1.139).

Findings of Fact

1. Johnny S. Tawil is an individual doing business as Discount Wholesale Produce (hereinafter referred to as "Respondent") whose business address is 2182 E. 10th Street, Los Angeles, California 90021.

2. At all times material herein, Respondent was licensed under the provisions of the Act. License number 971872 was issued to Respondent on July 23, 1997. This license was suspended on June 9, 1999, pursuant to Section 13(a) of the PACA (7 U.S.C. §499m(a)), when Respondent failed to allow access to its business records. This license terminated on July 23, 1999, pursuant to Section 4(a) of the PACA (7 U.S.C. §499d(a)), when Respondent failed to pay the required annual renewal fee.

3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. As set forth more fully in paragraph III of the Complaint, Respondent, during the period of March through May 1999, purchased, received, and accepted in interstate commerce from 15 sellers, 106 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices or balance thereof in the total amount of \$645,975.51.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 4 above, constitutes willful, flagrant, and repeated violations of Section 2(4) of the Act (7 U.S.C. §499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, flagrant, and repeated violations of Section 2(4) of the Act (7 U.S.C. §499b), and the facts and circumstances set forth above shall be published.

This order shall become effective on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings thirty-five days after service hereof, unless appealed to the Secretary by a party to the proceedings within thirty days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§1.139,1.145).

Copies hereof shall be served upon the parties.

Done at Washington D.C.

September 14, 2000

Dorothea A. Baker

Administrative Law Judge